

The opinion in support of the decision being entered today was
not written for publication and is not binding precedent of the Board

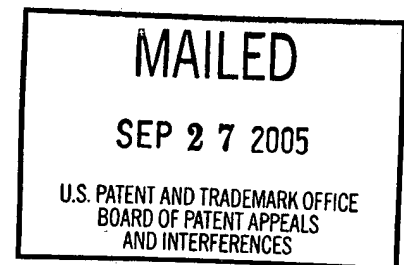
UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte CHRISTIAN RUQUE

Appeal No. 2005-2359
Application 09/628,442

ON BRIEF



Before THOMAS, GROSS, and MACDONALD, ~~Administrative Patent Judges.~~

THOMAS, ~~Administrative Patent Judge.~~

DECISION ON APPEAL

Appellant has appealed to the Board from the examiner's final rejection of claims 1 through 9 and 11. Representative claim 1 is reproduced below:

1. A device for electromagnetically protecting a drawer equipped with electronics cards, said drawer or being inserted into a drawer-receiving a structure through an opening provided in a front face of said drawer-receiving structure, said device comprising six faces distributed around said cards, wherein one of said faces of said device is formed by a front face of said drawer, while the five other faces of said device are

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formed by two side faces, a top face, a bottom face, and a back face of said drawer-receiving structure, said faces being electrically conductive.

The following references are relied on by the examiner:

Porter	5,808,866	Sep. 15, 1998
Aziz et al. (Aziz)	5,949,645	Sep. 7, 1999
Anderson et al. (Anderson)	6,209,842	Apr. 3, 2001

(filing date May 27, 1998)

Claim 1 stands rejected under 35 U.S.C. § 102(b) as being anticipated by Aziz.¹

Claims 2, 3 and 9 stand rejected under 35 U.S.C. § 103 as being obvious over Aziz in view of Anderson. Lastly, claims 4 through 8 and 11 stand rejected under 35 U.S.C. § 103. As evidence of obviousness, the examiner relies upon Aziz in view of Porter.²

Rather than repeat the positions of the appellant and the examiner, reference is made to the brief and reply brief for appellant's positions and

¹ In accordance with appellant's footnote 2 at the bottom of page 5 of the principal brief on appeal, we note here that appellant indicates that Aziz may not be available as prior art under 35 U.S.C. § 102(b) but does consider that this reference may constitute art under another section of 35 U.S.C. Because of the nature of our disposition in this appeal, this issue is not pursued.

² As noted at page 7 of the answer, the examiner has withdrawn a rejection of claims 1 through 11 under the second paragraph of 35 U.S.C. § 112.

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to the answer for the examiner's positions.

OPINION

Because we reverse the rejection of independent claim 1 under 35 U.S.C. § 102 as being anticipated by Aziz, the rejections of the remaining dependent claims on appeal are also reversed.

As to the rejection of independent claim 1 under 35 U.S.C. § 102, the distinguishing feature of the claim is that the front face recited is the "front face of the drawer" and the other five faces are of the housing or drawer-receiving structure, the claim further requiring that each of the six faces be electrically conductive. As noted at the top of page 5 of the reply brief, we agree with the general observation that all six faces of the correlated structures of Aziz by the examiner do not indicate to us that they are electrically conductive to effect the electromagnetically protective feature of the drawer equipped with electronic cards as set forth in the preamble.

According to the examiner's correlation at pages 3 and 4 of the answer with respect to the statement of the rejection of claim 1, the showing in Aziz's Figure 1 indicates that motherboard carrier 20 and service carrier 22 may comprise the claimed drawers. Correspondingly,

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the claimed drawer-receiving structure appears to be electronic computing unit 10 which has a housing 12, otherwise characterized as a support structure. Note the showings in Figures 1 through 3, 5, 10 and 18.

This dispute appears to be focused upon the claimed front face of the drawer. As shown in Figures 1, 2, 10 and 18, the element 24 shown generally in the down position is the lowered front plastic cover for the unit 10, where the unit 10 itself comprises both carriers 20, 22. This cover 24 is made of plastic as indicated in the paragraph bridging columns 4 and 5. There is no further indication in Aziz that this cover may comprise an electrically conductive-type of plastic. The plastic cover 24 also appears to be a cover of the housing/support structure 12 rather than of the drawer 20, 22.

The examiner's other apparent view with respect to the claimed front face of a drawer is set forth in pages 7 and 8 of the answer. The examiner also considers this feature as the front wall 40 that is unlabeled in Aziz's Figure 1 but shown and labeled in Figures 3 and 5. A corresponding cover 36 for the disks associated with the boot drive 38 of drawer 22 in Figures 3 and 5 would appear to correlate structurally to element 40. These figures

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make it clear that neither one of the covers covers the entire front or “face” of drawer/carrier 22. Aziz also does not indicate that either or both of these covers 36, 40 are an electrically conductive material of any kind such as to provide for electromagnetically protecting the drawer. It appears to us that the nature of the material comprising covers 36, 40 is not identified in Aziz. Additionally, we do not necessarily agree with the examiner’s view that cross-hatching in various figures in Aziz indicates the use of metal as comprising the labeled elements. The use of such cross-hatching merely indicates a surface rather than a use of a metal per se as comprising the surface, since Aziz does not otherwise indicate the identified cross-hatched surfaces are made of metal or are otherwise electrically conductive.

Since the foregoing discussion inescapably indicates to us that all features of the subject matter recited in independent claim 1 on appeal are not taught or suggested or otherwise shown or indicated to the artisan, we must reverse the rejection of this claim. It naturally follows then that we cannot sustain the rejections of the dependent claims under 35 U.S.C.

